

Before the
COPYRIGHT ROYALTY BOARD
United States Copyright Office
Washington, DC

In re

Distribution of Digital Audio Recording
Royalty Funds

Docket No. 15-CRB-0011-SRF (CO) (2014)

REPLY TO RESPONSE IN OPPOSITION TO AARC’S MOTION TO DISMISS CGN

The Alliance of Artists and Recording Companies, Inc. (“AARC”),¹ on its behalf and that of itself, Emmanuel Adeyinka (“Adeyinka”), and Benjamin Bacon (“Bacon”) (collectively referred to as the “Settling Parties”),² hereby submits its reply to the response filed by “circle god network inc d/b/c/ david powell” (“CGN”). On November 24, 2019, CGN responded to AARC’s motion to reject CGN’s Petition to Participate. Motion Response In Opposition To Dismiss Powell By AARC From 2014 SRF Proceeding and To Dismiss AARC From Proceedings, *In re* Distribution of 2014 Digital Audio Recording Royalty Funds, Docket No. 15-CRB-0011-SRF (CO) (2014) (Nov. 24, 2019) (“CGN Response”). The CGN Response does not

¹ AARC represents tens of thousands of featured recording artists and sound recording copyright owners (“AARC Participants”), with combined repertoires of millions of sound recordings and billions of sales. AARC, a non-profit organization formed to administer DART royalties, is the leading common agent representing the interests of featured recording artists and sound recording copyright owners in DART royalty proceedings. AARC currently represents over 440,000 featured recording artists and over 16,000 labels. AARC has filed valid claims to the 2014 DART SRF Subfunds at issue and represents all the 2014 DART SRF parties.

² As mentioned in AARC’s Notice of Settlement and shown on the eCRB, AARC has settled with Adeyinka and Bacon as for the distribution of 2014 DART SRF. AARC will represent them in the further proceedings. Notice of Settlement and Request for Partial Distribution of the 2014 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds Royalties, *In re* Distribution of 2014 Digital Audio Recording Royalty Funds, Docket No. 15-CRB-0011-SRF (CO) (2014) (July 23, 2015).

address the fact that CGN failed to file a DART Sound Recording Fund (DART SRF) claim by the statutorily mandated due date. Id.

The CRB's regulation requires that "[a] motion, responsive pleading, or reply must, at a minimum, state concisely the specific relief the party seeks from the Copyright Royalty Judges, and the *legal, factual, and evidentiary basis* for granting that relief (or denying the relief sought by the moving party)." 37 C.F.R. § 303.4 (2019) (emphasis added). The CGN Response, however, merely consisted of baseless accusations against AARC. CGN erroneously alleged that AARC filed its 2014 DART SRF claims late, while simultaneously failing to provide any proof that it filed a 2014 DART SRF claim. CGN Response.

Nothing in the CGN Response addressed CGN's failure to file a claim by the due date, which is a statutory and regulatory prerequisite to participation in a DART proceeding. 17 U.S.C. § 106(a)(2); 37 C.F.R. § 360.21 (2019). Pursuant to the statute and regulation, failure to file a timely claim disqualifies a party from participating in a DART proceeding. Id. Instead, CGN claimed that "Mr. Powell claimants established entitlement [sic] has filed a valid DART claim on every *prior* occasion." CGN Response (emphasis added). Therefore, CGN conceded that it did not file a *2014* DART claim.

Finally, CGN's allegation that AARC filed late claims, is refuted by the CRB's records. According to these records, AARC filed Featured Artist Subfund and a Copyright Owners Subfund claims on February 27, 2015. See Attachment 1. On March 2, 2015, AARC filed supplementary claims to its February 27 claims. See Attachment 2. These additional claims were

also timely filed because in 2015, the last day of February fell on a Saturday. See Attachment 3.

The CRB's 2015 regulations detailing "Compliance with statutory dates," stated,

Notwithstanding paragraphs (a) and (b) of this section, in any year in which the last day of February falls on a Saturday, Sunday, a holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Royalty Board by the first business day in March . . . filed.

37 C.F.R. § 360.24(c) (2015), See Attachment 4.

WHEREFORE, in view of the foregoing, it is clear that CGN never filed a 2014 DART SRF claim and, so, should be immediately dismissed from the 2014 DART SRF distribution proceeding.

Respectfully submitted,
On Behalf of AARC

/s/Linda R. Bocchi, Esq.
Linda R. Bocchi, Esq.
DC BAR # 338012
VA BAR # 77599
Executive Director
Alliance of Artists and Recording
Companies
700 N. Fairfax Street, Suite 601
Alexandria, VA 22314
(703) 535-8101 (phone)
(703) 535-8105 (facsimile)
lbocchi@aarcroyalties.com

November 26, 2019

In the Matter of
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ATTACHMENTS

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ATTACHMENT 1

DART Joint Claims from AARC

Linda R. Bocchi, ESQ

From: Copyright.Royalty.Board@loc.gov
Sent: Friday, February 27, 2015 3:09 PM
To: Linda R. Bocchi, ESQ
Cc: Linda R. Bocchi, ESQ
Subject: Dart Joint Claim from Alliance of Artists and Recording Companies

[Please note: This is an automatically generated message to which you cannot reply.]

The following information was submitted to the Copyright Royalty Board at 15:09 on 2/27/15. There is 1 attached file.

Name of person or entity filing the claim:
Alliance of Artists and Recording Companies

Filer's Status:
Both (Interested Copyright Party and Authorized Representative of Interested Copyright Party)

Address of person or entity filing the claim:
700 N. Fairfax Street
Suite 601
Alexandria, VA 22314

Telephone number of person or entity filing the claim:
7035358101

Email address (if any) of person filing the claim:
lbocchi@aacroyalties.com

Statement as to the subfund against which the claim is being made:
Sound Recordings Fund: Featured Artist Subfund

Statement as to how claimant fits within the definition of interested copyright party specified in 17 U.S.C. § 1001(7):
(D) Claimant is an association or other organization -- (i) representing persons specified in subparagraph (A),(B), or (C) above (see 17 U.S.C. § 1001(7)(D)(i))

Identify at least one musical work or sound recording of claimant on whose behalf this claim is filed embodied in a digital or an analog musical recording lawfully made under the Copyright Act that has been distributed or disseminated to the public in transmissions between January 1 and December 31, 2014:

Florida Georgia Line, "Cruise", Republic Nashville, Big Machine Records Feist, "1234", Interscope, Universal Music Group Britney Spears, "Alien", RCA, Sony Music Imagine Dragons, "Ready Aim Fire", Hollywood, Disney Music Group Jason Mraz, "I Won't Give Up", Atlantic, Warner Thom Yorke, "Feelingpulledapartbyhorses", Xurbia Xendless, 41 GP Rights LTD

Statement of authorization for filing joint claim. The parties listed below have duly authorized the agent named herein to file this claim on their behalf. Name of each claimant to the joint claim:

Claimant 1:

Claimant 2:

Claimant 3:

Claimant 4:

Claimant 5:

Claimant 6:

Claimant 7:

Claimant 8:

Claimant 9:

Claimant 10:

Contact Name:

Linda R. Bocchi, ESQ

Attached list of claimants

ArtistClaimFinal.txt

Contact Telephone:

7035358101

Contact Email:

lbocchi@aacroyalties.com

If you've received this message in error, please contact the Copyright Royalty Board, <http://www.loc.gov/crb/contact>
Thank you.

Linda R. Bocchi, ESQ

From: Copyright.Royalty.Board@loc.gov
Sent: Friday, February 27, 2015 3:06 PM
To: Linda R. Bocchi, ESQ
Cc: Linda R. Bocchi, ESQ
Subject: Dart Joint Claim from Alliance of Artists and Recording Companies

[Please note: This is an automatically generated message to which you cannot reply.]

The following information was submitted to the Copyright Royalty Board at 15:05 on 2/27/15. There is 1 attached file.

Name of person or entity filing the claim:
Alliance of Artists and Recording Companies

Filer's Status:
Both (Interested Copyright Party and Authorized Representative of Interested Copyright Party)

Address of person or entity filing the claim:
700 N Fairfax Street
Suite 601
Alexandria, VA 22314

Telephone number of person or entity filing the claim:
703-535-8101

Email address (if any) of person filing the claim:
lbocchi@aacrcroyalties.com

Statement as to the subfund against which the claim is being made:
Sound Recordings Fund: Copyright Owners Subfund

Statement as to how claimant fits within the definition of interested copyright party specified in 17 U.S.C. ? 1001(7):
(D) Claimant is an association or other organization -- (i) representing persons specified in subparagraph (A),(B), or (C) above (see 17 U.S.C. ? 1001(7)(D)(i))

Identify at least one musical work or sound recording of claimant on whose behalf this claim is filed embodied in a digital or an analog musical recording lawfully made under the Copyright Act that has been distributed or disseminated to the public in transmissions between January 1 and December 31, 2014:

Steep Canyon Rangers, Steep Canyon Music, Steep Canyon Rangers, ?Old Dreams and New Dreams?
Polyvinyl Record Co., Poly Vinyl, Matt Pond PA, ?A Part Of The Woods?
Warner Music Group, Warner Brothers, Linkin Park, ?A Light That Never Comes?
Def Jam, Universal Music Group, Rihanna, ?A Girl Like Me?
Jive, Sony Music Entertainment, Sia, ?Be Good To Me?
Big Machine, Big Machine Records, Taylor Swift, ?Dear John?

Statement of authorization for filing joint claim. The parties listed below have duly authorized the agent named herein to file this claim on their behalf. Name of each claimant to the joint claim:

Claimant 1:

Claimant 2:

Claimant 3:

Claimant 4:

Claimant 5:

Claimant 6:

Claimant 7:

Claimant 8:

Claimant 9:

Claimant 10:

Contact Name:
Linda R. Bocchi

Attached list of claimants
SRCOClaimNoRepFINAL.txt

Contact Telephone:
7035358101

Contact Email:
lbocchi@aacrcroyalties.com

If you've received this message in error, please contact the Copyright Royalty Board, <http://www.loc.gov/crb/contact>
Thank you.

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ATTACHMENT 2

AARC-CRB Emails

Linda R. Bocchi, ESQ

From: Linda R. Bocchi, ESQ
Sent: Tuesday, March 3, 2015 10:11 AM
To: Dart Claims
Cc: Mike Stern
Subject: RE: AARC - Claims Question

Good Morning,

No, yesterday's claims are in addition to, not in place of, the ones filed on Friday. Mike will deliver to the CRB a hard copy of Friday's claims on March 9.

Best regards,
Linda

--

Linda R. Bocchi, ESQ
Executive Director

AARC | Alliance of Artists and Recording Companies
Worldwide Hometaping, Rental, and Lending Music Royalties Management

700 North Fairfax Street | Suite 601 | Alexandria, VA 22314
tel: +1 (703) 535-8101 | fax: +1 (703) 535-8105
lbocchi@aacroyalties.com
www.AARCroyalties.com

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This E-mail may contain Information from AARC that may be confidential or privileged. The Information is intended only for the use of the party to which it is addressed. If you receive this E-mail in error, BEWARE, any disclosure, printing, forwarding, distribution or use of the contents of this E-mail is prohibited. Please reply to us immediately so that we can arrange for its delivery to the proper person.

From: Dart Claims [mailto:dartclaims@loc.gov]
Sent: Tuesday, March 3, 2015 9:37 AM
To: Linda R. Bocchi, ESQ
Cc: Dart Claims
Subject: AARC - Claims Question

Hi Linda:

The claims you filed on 3/2 are they supposed to replace the claims filed on 2/27?

Due to the size of the attachments, the CRB requested a hard copy of the claims and attachments. Mike Stern said a hard copy of the claims and attachments will be delivered on March 9.

Can you please make sure the correct claim is attached to each filing?

Copyright Royalty Board

Linda R. Bocchi, ESQ

From: Dart Claims <dartclaims@loc.gov>
Sent: Tuesday, March 3, 2015 9:37 AM
To: Linda R. Bocchi, ESQ
Cc: Dart Claims
Subject: AARC - Claims Question
Attachments: Dart Joint Claim from Alliance of Artists and Recording Companies; RE: Dart Joint Claim from Alliance of Artists and Recording Companies; Dart Joint Claim from Alliance of Artists and Recording Companies

Hi Linda:

The claims you filed on 3/2 are they supposed to replace the claims filed on 2/27?

Due to the size of the attachments, the CRB requested a hard copy of the claims and attachments. Mike Stern said a hard copy of the claims and attachments will be delivered on March 9.

Can you please make sure the correct claim is attached to each filing?

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ATTACHMENT 3

2015 Holiday Calendar

2015

January 2015						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

February 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

March 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April 2015						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

May 2015						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June 2015						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July 2015						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August 2015						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September 2015						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October 2015						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December 2015						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

January						
19: Martin Luther King Day						
February						
14: Valentine's Day						
16: Presidents' Day						
March						
April						
03: Good Friday						
05: Easter Sunday						
May						
10: Mother's Day						
25: Memorial Day						
June						
21: Father's Day						
July						
04: Independence Day						
August						
September						
07: Labor Day						
October						
12: Columbus Day						
31: Halloween						
November						
11: Veterans Day						
26: Thanksgiving Day						
December						
25: Christmas Day						

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§ 360.23 Content of notices regarding independent administrators.

(a) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A), and the American Federation of Musicians (or any successor entity) for the purpose of managing, and ultimately distributing the royalty payments to nonfeatured musicians as defined in 17 U.S.C. 1006(b)(1), shall file a notice informing the Copyright Royalty Board of his/her name and address.

(b) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A), and the American Federation of Television and Radio Artists (or any successor entity) for the purpose of managing, and ultimately distributing the royalty payments to nonfeatured vocalists as defined in 17 U.S.C. 1006(b)(1), shall file a notice informing the Copyright Royalty Board of his/her full name and address.

(c) A notice filed under paragraph (a) or (b) of this section shall include the following information:

(1) The full name of the independent administrator;

(2) The telephone number and facsimile number, if any, full address, including a specific number and street name or rural route, of the place of business of the independent administrator.

(d) Notice shall bear the original signature of the independent administrator or a duly authorized representative of the independent administrator, and shall be filed with the Copyright Royalty Board no later than March 31 of each year, commencing with March 31, 2006.

(e) No notice may be filed by facsimile transmission.

§ 360.24 Compliance with statutory dates.

(a) Claims filed with the Copyright Royalty Board shall be considered timely filed only if:

(1) They are received online in the Board's server no later than 5 p.m. E.S.T. on the last day of February. Online claims must be filed through the Copyright Royalty Board Web site at

<http://www.loc.gov/crb/dart/> during the months of January and February.

(2) They are hand delivered by a private party no later than 5 p.m. E.S.T. on the last day of February. Claims hand delivered by a private party must be delivered to the Copyright Office Public Information Office, in the James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m., and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC 20559-6000. Claims hand delivered by a private party must be filed at the Copyright Office Public Information Office during the months of January and February.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) no later than 4 p.m. E.S.T. on the last day of February. Claims hand delivered by a commercial courier service (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, Monday through Friday, between 8:30 a.m. and 4 p.m., and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC 20559-6000. Claims hand delivered by a commercial courier must be filed at CCAS during the months of January and February.

(4) They are mailed through the United States Postal Service (USPS) having sufficient postage and bearing a January or February USPS postmark. Claims mailed through USPS must be addressed as follows: Copyright Royalty Board, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via

§ 360.25

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United States Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after the last day in February will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which the last day of February falls on a Saturday, Sunday, a holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Royalty Board by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in March, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Royalty Board, proper filing of the claim may nonetheless be proven if it was sent by

certified mail return receipt requested, and a receipt bearing a January or February date stamp of the United States Postal Service, except where paragraph (c) of this section applies, can be provided. No other offer of proof will be accepted in lieu of the receipt.

(f) The Copyright Royalty Board will accept either the confirmation page generated upon submission of the claim online through the Copyright Royalty Board Web site or the electronic mail message from the Copyright Royalty Board confirming receipt of the claim as proof that a claim submitted online through the Copyright Royalty Board Web site was received timely in the Board's server. No other offer of proof will be accepted in lieu thereof.

[70 FR 30905, May 31, 2005, as amended at 71 FR 53331, Sept. 11, 2006]

§ 360.25 Copies of claims.

A claimant shall, for each claim submitted to the Copyright Royalty Board by hand delivery or by mail, file an original and one copy of the claim to digital audio recording devices and media royalty payments.

Proof of Delivery

I hereby certify that on Tuesday, November 26, 2019, I provided a true and correct copy of the AARC Reply to Powell's Response in Opposition to the following:

circle god network inc d/b/a david powell, represented by david powell, served via Electronic Service at davidpowell008@yahoo.com

Eugene Curry Mr., represented by Eugene Curry Mr., served via Electronic Service at lambchopsmusic@voicenet.com

Signed: /s/ Linda R Bocchi